IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 595 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AP SOLANKI

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 595 of 1999

MR IS SUPEHIA for Petitioner No. 1

MR N.D.GOHIL, AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 09/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. I.S.Supehia for the petitioner and learned AGP Mr. N.D.Gohil, appearing on behalf of the respondent.

2. The grievance of the petitioner is that he was working as Clerk and he came to be promoted to the post of Deputy Mamlatdar by order dated 27.1.1992 and thereafter by order dated 31.3.1993, petitioner was reverted by the respondent. Along with the petitioner one junior Mr. V.S.Kataria was also reverted. Therefore both the employees, that is, present petitioner Mr. A.P.Solanki and Mr. V.S.Kataria have challenged the order of reversion before this Court being Special Civil Application No. 2944 of 1993 wherein this Court has passed an order on 4.8.1994 which is quoted as under:

"1. Heard Mr. Anand for the petitioner and Mr. A.R.Dave for the respondents. The petitioners herein are challenging their reversion from the post of Deputy Mamlatdar to a lower post. In my view, in the facts of the present case, the said grievance can be agitated before the Gujarat Civil Services Tribunal, at Gandhinagar.

2. Petitioners herein were sought to be reverted by order dated 6th April, 1993. The present petition was filed on 5th April, 1993 and an order of status quo was granted by this Court on 6th April, 1993. Out of the two petitioners, with respect to petitioner No.2, the fact is that he has been protected in view of the order of status quo granted by this Court. As far as the first petitioner is concerned, the order of reversion was not served on him until 6th April, 1993, the date on which this Court passed the order of status quo and still he had come to be reverted. In view thereof, it is appropriate that the first petitioner also ought to be restored to the position of Deputy Mamlatdar, with respect to which the order of status quo was passed on 6th April, 1993. The respondents shall, therefore, restore the first petitioner to the position of Deputy Mamlatdar within two weeks from the receipt of the writ of this Court.

3. Mr. Anand states that the petitioners will file the appeal against the order of reversion before the Gujarat Civil Services Tribunal, Gandhinagar, within the time provided for filing the same, after the aforesaid restoration is effected. The time spent during the present proceedings and the aforesaid restoration will not be counted against the

petitioners. Apart from filing the appeal, the petitioners may apply for stay of the impugned orders and the order of status quo granted by this Court will run until the stay application is heard and decided by the said Tribunal.

4. In view of the aforesaid order, the petition is disposed of. Notice is discharged with no order as to costs."

3. Learned advocate Mr. I.S.Supehia has submitted that in respect to junior Mr. V.S.Kataria the reversion order was passed along with the petitioner who has got protection because of the status quo granted by the High Court but, unfortunately, in case of the petitioner, status quo was not implemented by the respondent in favour of the petitioner. Therefore, Mr. Supehia has submitted that petitioner having two prayers in the present petition. One prayer is to quash and set aside the reversion order including the order of Tribunal and second prayer is that both petitioner and Mr. V.S.Kataria, who was junior to the petitioner approached to this Court and got the status quo order in their favour but in respect of Mr. Kataria the reversion order is stayed and in respect of the petitioner not stayed by the respondent though order is passed by the Court. Therefore, he submitted that whatever benefits in pursuant to the status quo order is received by Mr. Kataria, same may be given to the petitioner also. Mr. Supehia has also submitted that in pursuance to the order passed by this Court on 4.8.1994, position was restored in respect to the petitioner, therefore, interim period, the petitioner was reverted from Deputy Mamlatdar to Clerk, atleast petitioner is entitled the similar benefits which was available by Mr. Kataria.

4. On behalf of the respondent affidavit-in-reply is filed and I have heard learned AGP Mr. N.D.Gohil appearing on behalf of the respondent. I have considered the submissions made by both the learned advocates. The order passed by this court, wherein, specific direction is issued by this Court to the respondent to restore the first petitioner to the position of Deputy Mamlatdar within two weeks from the receipt of the Court order which relate to the petitioner. Therefore, in pursuance to the direction issued by this Court on 4.8.1994 petitioner was restored to the post of Deputy Mamlatdar by order dated 17.8.1994, therefore, now question remained that from 1.4.1993 to 17.8.1994 Mr. V.S.Kataria who was junior to the petitioner has received benefit of the salary to the post of Deputy Mamlatdar but that

benefit has been denied to the petitioner because reversion order has been implemented by the respondent. Therefore, status quo was not having any legal effect in respect to the petitioner. I have also examined the fact that once the petitioner and Mr. Kataria both were approached to this Court and this Court has granted status quo in favour of both the persons one has to get the benefit and the other has not that is how this Court has directed to the respondent to restore the position of the present petitioner and in fact it was restored by order dated 17.8.1994. Therefore, in light of these facts, it is now necessary to grant similar benefit which has been enjoyed and received by Mr. Kataria who was junior to the petitioner for a period, from 1.4.1993 to 17.8.1994, therefore, it is directed to the respondent to grant all the service benefits including the difference of salary to the petitioner for a period from 1.4.1993 to 17.8.1994 within a period of 3 months from the date of receiving the copy of the said order.

5. In view of the above observations and directions, rule is made absolute accordingly. No order as to costs.

(H.K.Rathod,J)

Jayanti*